EDITORIAL OPINIONS OF THE LEADING JOURNALS UPON CURRENT TOPICS-COMPILED EVERY DAY FOR THE EVENING TELEGRAPH.

MALPRACTICE.

From the N. Y. Tribune. Actions at law against medical men for malpractice, especially when brought by heirs, executors, or administrators, are of doubtful validity. The patient and physician, as the original parties to the contract, are in the same implied position which buyer and seller in market overt occupy; and there is no reason why to their relation the rule of caveat a good or a bad one, and the doctor can contract for the employment of no more skill than he possesses. If he is to be held for every error of judgment, why may he not be held for treating disease homeopathically when, in the opinion of the court and jury, he should have proceeded upon the system commonly called allopathic. This would be to put medical systems upon their trial; and if we are to come to that, juries may be next called upon to decide upon the comparative merits of a dozen different "Bitters." Let us look at a case which has recently been de-

cided, and most righteously determined, in

the District Court in Philadelphia.

Thaddens Stevens, in 1864, while serving in the army, received a wound in the thigh; emputation was performed above the knee, and the patient was fitted upon the stump with an artificial leg. After the operation an aneurism formed below the joint of the thigh bone, which was troublesome, and the operation for it was performed by Dr. Gross, assisted by several eminent surgeons. The patient was taken home, was constantly attended, day and night, by one surgeon or another, and was nursed by students from the medical school. Secondary hemorrhage set in, which was checked, but ultimately the patient died. This action was brought by his widow for the recovery of damages, although it was in evidence that Professor Gross was extremely unwilling to perform the operation, and only did so after a good deal of importunity on the part of the deceased. After the case for the plaintiff had been put it, the facts appearing as substantially stated above, Lynd J. would not permit the case to go to the jury, but directed a nonsuit. The defendants (Dr. Gross's son was included in the action) were auxious to put in their own evidence, and take a verdict, but the Court would not permit this, being clearly of opinion that a case had not been made out. A similar suit also comes under our notice, occurring in New Hampshire. The action was brought for alleged malpractice in setting a limb. At the first trial the jury gave the plaintiff \$2500 damages; upon a review smaller damages were given, and the verdict set aside upon exceptions; and the case was then put on trial for the third time.

Premising that of all quacks in the world we hold the medical quack in the greatest abhorrence, we must be permitted to say that "malpractice" which is made the occasion of so many suits against the poor doctors is as uncertain and unsubstantial as possible. Sick folk will die in spite of the most judicious treatment, that end having been appointed for all men; and it is not, and cannot in the nature of things be, a part of the contract between the sick and the physician that the death of the former shall render the latter liable to pay damages. If such were the law no sensible doctor would ever write another prescription. He would know that a considerable portion of his treatment must be in the nature of an experiment; that with the best intentions and knowledge carefully acquired he may be misled in his diagnosis; that in determining symptoms he may be misin-formed; that he can never be sure, while nurses are negligent and old wives officious, that his directions will be followed. Some folly or prejudice or silly traditional notion, some dosing of which he knows nothing, or about which, if he inquires, he is told a dozen lies, may frustrate all efforts and render ineffectual his honest care and skill. The patient dies, and the unhappy doctor is at once, in too many cases, regarded as a bungler, an ignoramus, and a murderer. He is arraigned by the bereaved; he is tried by gossips and found guilty by tea-table juries—and all because God saw fit to make His children mortal. Very few people die without leaving behind them a number of mourners who are perfectly sure that this syrup or that tineture, this sudorific or that tonic, or the other laxative, if it had been properly and promptly and persistently exhibited, would have averted the calamity. Of course, the physician is not always made a defendant whenever he may lose a case; but he may be chattered and gossipped and slandered and misrepresented out of a neighborhood, and compelled to abandon a practice acquired through years of patient industry and painstaking. Some clever young man will come to take his place, and to be, unless extremely fortunate, subjected to the same melancholy fate.
We would not be understood to say that

there may not occasionally arise cases of gross malpractice in which a doctor may deserve to pay roundly for his negligence or for his ignorance. A blunderer who puts a patient half dead with phthisis into a steam box, having previously filled him with lobelia and red pepper, should be made to pay damages if he has any money, or to go to jail if he has none. This is a different case from that of an educated and conscientious practitioner, who, having done his best to postpone that ceremonial, is tittle-tattled almost to his own death at the funeral of a patient wao may have succumbed, after all, to some incurable disease like old age or a confirmed and neglected consumption. It should be understood once for all that no medical school can impart to its neophytes the secret of working miracles. As the poet says, "Die we may, and die me must," a fact of which every human being is finally, however reluctantly, convinced, but which the doctor knows from the time when he is summoned to the time when he retreats from an ineffectual struggle with disease.

THE COMMUNISTS AT BAY.

From the N. Y. Times.

If it be true, as stated in a cable despatch. that the Communists are only 12,000 strong, they are fighting as no Frenchmen of this generation have ever fought, The men who hold Paris with a tenacity so stubborn that hostile entrenchments in the Bois de Boulogne do not dismay them, and the loss of a point so vital as Fort d'Issy is only regarded as a fresh incentive to resistance, have carned for themselves a place in the array of forces that will shape the future of France. Nobody who has watched the progress of the Versailles troops towards the reduction of Paris, need be reminded that the

cupied long ago, had the soldiers who obey the orders of M. Thiers been animated by any genuine devotion to the Versailles Government. The great misfortune of France at the present moment is that she has no leader, and no principles fitted to command the enthusiasm of a people demoralized by a longworship of success, and trained to substitute an exaggerated national vanity for the ideal of true patriotism. What is popularly known as the quart d'heure de Rabelais—the longdeferred settling-day-has come with a vengeance, and there is a sort of morbid consolation to be derived from the continuance of the present troubles, inasmuch as they defer the time when the nation most settle down to the dreary work of paying out of hardwon earnings the heavy penalty of defeat, One hundred millions of dollars are to be paid by France to Germany thirty days

It is far from unlikely that this newly aunounced provision of the final treaty of peace may help to retard the event on which it depends. In the Versailles army there are Bonapartists, Orleanists, and Legitimists, as well as Republicans. If the leaders of these sections of French polities have any avowed policy at all, it is that of waiting upon events. One of the contingencies reckoned upon is that the moderate Republic to which M. Thiers expresses himself devoted will prove unable to cope with the Communist opposition, and that the country will throw itself into the arms of some of the rival factions. The pacification of Paris, and the payment of the first instalment of the indemnity to Germany, would entitle the existing Government, on the one hand, to the confidence of the people, and en the other to the support of the Cabinet of Berlin. Meanwhile, France is uncertain on whom to depend, and Germany is ready to sustain any government that is strong enough to make itself obeyed, and popular enough to be trusted with the savings of the people.

The determined stand made by the Commune will, even after it has ceased, compel some concessions to the men who have proved so formidable. Were the fanatics of the Parisian faubourgs of Anglo-Saxon race, they would probably emigrate the moment they were fairly beaten. But with Frenchmen, and more especially Parisians, the ties of locality are too strong to be dissolved, even by bitter disappointment and irreparable disaster. Be their numbers twelve thousand or a hundred thousand, they will represent henceforth, as Louis Napoleon used to say he did, "a cause, a principle, and a defeat. They will be perpetually on the watch to retrieve the one and to avenge the other. The shame of the German occupation will rankle less deeply than the memory of being conquered by men of their own race and people. There will be memories of triumph, too, like the bayonet charge that reconquered Vanvres, and the sanguinary struggle at the Bridge of Neuilly. It will be difficult to appease a faction like this, but still more difficult to disregard it. France, if she is to remain a republic at all, cannot, as she has before attempted, retain an Imperial organization. The great cities must, unquestionably, have a more potent voice than heretofore in the selection of their local officers. For good or evil, universal suffrage must be allowed its full share in municipal as well as national affairs. With towns that are Republican, and rural districts that are Imperialist or monarchical, the problem of French cohesion is one of the hardest of European politics. On the mode in which it is worked out depends, perhaps more than on any other circumstance, the future of European

GENERAL GRANT AND THE REPUB-LICANS-GENERAL SHERMAN AND THE DEMOCRACY.

From the N. Y. Herald. There are two things in regard to the next Presidency which are morally certain, and a third which can hardly be doubted. The first is that General Grant will be the Republican candidate; the second is that the Republican party will be united in his support, and the third is that unless the Democracy take a new departure, they will, as in 1860, 1864, and 1868, be again defeated. The necessities of their position demand a new departure, both in their platform and in their candidate; for, though we look all the way back to General Jackson, we can find no Democratic Presidential platform available for 1872, and in all the list of regular hold-over Democratic politicians mentioned as among the probabilities in the coming contest, there is not one of them possessed of sufficient wind and bottom for a four-mile heat over the national course with General Grant.

While he was pushing his St. Domingo annexation scheme, and with the apparent resolution of pushing it at all hazards, there was a hope, from the Republican defeat in New Hampshire, that the party might become so demoralized and divided as to render the renomination of General Grant somewhat doubtful, and the prospect for the Democrats, in any event, very encouraging. But the President having put out of the way his St. Domingo apple of discord, the Connecticut election upset the pleasing Democratic delusion that New Hampshire was the beginning of a great political revolution, and convinced the party that that election must be set down to the chapter of accidents. Indeed, the alarming clamor and enthusiasm of the Democrats over New Hampshire, including the unfortunate speech of Jeff Davis in Alabama, expressing his hope of the ultimate triumph of the "lost cause," had much to do with their defeat in Connecticut. In the one State the Republicans were caught napping over Summer and St. Domingo; in the other they were thoroughly aroused by what they supposed to be the old war drums and the rappe of the Rebellion.

But if the dropping of St. Domingo by General Grant silenced the mutineers of his party and disarmed even Senator Sumner, what shall we say of the grand idea of the Joint High Commission and of the great tresty from that enlightened body of peacemakers now before the Senate, in connection with General Grant and the Presidential succession? In the very announcement, from those significant desputches between Queen Victoria and General Grant, of the grand idea of this High Commission for the adjustment of all the questions in controversy tween the two countries, we believed that this thing would be a great feather in the cap of the administration, and so expressed our belief at the time. The grand result in the admirable treaty before the Senate confirms our anticipations, and lifts up General Grant to an enviable position among the great practical statesmen of the enlightened age we

"Peace bath her victories no less renowned than And this victory of peace at Washington, we think, will be "no less renowned" than

any of those bloody triumphs of Fort Donelduction of Paris, need be reminded that the republic and the Commune are not the only two elements to be considered in the present struggle. The capital might have been oc-

policy of economy and retrenchment, has vindicated his administration before the country, and his sagacity and capacity in the great cause of international peace. And here we may remark that his experience in the horrors of war, as in the case of the Duke of Wellington, has given the world one of the most devoted champions of peace.

The question, then, as to the Republican condidate for the Presidential succession, and as to his commanding claims and popularity over all other candidates of his party, is set-tled in favor of General Grant. As he now stands before the country, the great peace-maker, how small appear the wrath of Sumner, the folly of Penton, the complaints of Carl Schurz, the defection of Gratz Brown, the hedging of Trumbull, and the doublings and twistings of Greeley concerning the distribu-tion of the spoits! With the record which tion, and especially from the Joint High Commission, he can stand before the people upon his merits as a statesman, and will be hard to beat as a candidate for another term. The Democratic party will have to meet him again in the field; and liere these important questions recur, Who is their man, and what is

their proper plan of operations? General Sherman is their man, and the platform proposed in Memphis—"Universal amnesty and universal amity"—is their proper platform. The great difficulty of the Democratic party, with its Copperhead and Southern Rebel affiliations, has been and is the cloud of popular distrust which hangs over it in reference to the fourteenth and fifteenth amendments; and the secret of its weakness in 1864 and in 1868 was that opposition to the war for the Union and its fixed results which cut off from it the great mass of the supporters of Lincoln in the war. Let the Democracy make General Sherman their candidate, and all these barriers between them and the Union party of the war will be removed. They will at once divide the honors of the war with the Republicans and disarm them on that issue. All doubts, too, as to the future policy of the Democrats in reference to the fourteenth and fifteenth amendments will be at an end with General Sherman's nomination, and all misgivings in regard to the redemption of the national debt. He is sound upon all these questions, and we know that he is not a man who can be molded to their purposes by unscrupulous and mischief-making politicians. In short, the nomination of General Sherman would of itself be a new departure for the Democrats which would break down all those distinctions on the war which have been their weakness and the strength of the Republicans.

But it is particularly upon the Ku-klux question that General Sherman commends himself to the Democratic party. His late speech at New Orleans on the Ku-klux has given him a new claim to the confidence and support of the American people in any position in which he may appear before them. In this speech he has defined his policy in the South to be not that of coercion, but that of conciliation-not the policy of the bayonet, but the policy of local remedies of law for local disorders such as those of the Ku-klux Klans. He is opposed to thrusting in the army where it is not wanted, and he believes, and he, as the head general of the army, ought to know, when he says that it is not wanted in the suppression of the Ku-klux. These ideas of General Sherman are the prevailing public sentiment, and it must be remembered, at the same time, that peace in and with the South is not less to be desired than peace with England on a mutually satisfactory basis.

The Southern policy of conciliation and reconciliation emanating from General Sherman is better than the policy of the bayonet adopted by General Grant. "Universal amnesty" is good, and "universal amity," we believe, will follow it. The victorious party in a foreign war can afford to be generous, and the victorious party in a domestic war ought to be generous. How else, looking to the South, can we heal the wounds still left open from the war? General Sherman, then, is the proper man for the Democratic party. Put him in the field and in the front against General Grant, and not only will the Union supporters of the war be divided between them. but the courtesies of brother soldiers will prevail in the campaign between the two parties. The violent hostilities between the two parties and the two races will disappear in the South, for, as many of the blacks will be drawn to Sherman and the Democrats, the bitterness of the whites against them will change into a better feeling, and the present danger of a war of races will be removed.

On the Ku-klux question General Sherman will neutralize the popularity of General Grant on the Joint High Commission; and on the war and the issues of the war the two parties, with Sherman opposed to Grant, will stand substantially on the same footing before the people. Thus, then, upon the great financial questions of the day, the Demo-cracy, under the banner of Sherman, may, North and South, secure the balance of power in the election. In short, if for the great Presidential battle of 1872 General Grant is the only man for the Republicans, General Sherman, of all men, is the man for the Democracy. Let them try him, and the party will at once rise to its feet, "like a giant refreshed with new wine," North and South, East and West. Try him, for the field is open for Sherman, and the coast is

PUMPING A PHILOSOPHER. From the N. Y. World.

That was a reasonable old Jamaica negro who, being condemned to be "paddled" for some offense, and brought into the prison chapel to hear a sermon before receiving his quantum of lignumvitæ, bitterly remonstrated with his keeper, exclaiming:—"No! no! me floggee, but me no preachee." We are sure that any man who may have grace given him to read the dialogue between Rulloff, the murderer, and the commissioners appointed to visit him in his cell, will think with us that the homicidal philologist has been worse dealt with than the Jamaica chicken-thief. A more dreary deluge of ineptitudes and platitudes than this dialogue it would be hard to find even in the sacred books of Confucius and Mencins, or in the records of a New England

The commissioners examined the murderer with the trivial persistency of a French criminal judge hunting a prisoner to earth and the excursive minuteness of a country parson bent on putting a peripatetic "medium" through his paces. They went through his personal history without eliciting much of moment, save the interesting fact that the poor man's health had suffered considerably from a somewhat protracted residence in Aubura State Prison many years ago. He got into that deleterious abode at the early age of twenty-five, in consequence either of his mar-riage about that time or of some other slight inaccuracy in his conduct, which he alludes to most delicately as "a difficulty." In

tillation of philological truth for the builing of peas and perk. Still this comparatively dismal portion of his career was not without its valuable fruits. He discovered a certain cure for dyspepsia which we gladly make public. After suffering intensely for some time from this truly national scourge, while officiating as cook in the prison, Mr. Ralloff was suddenly inspired one night with a mad desire to arise out of his bed and "cook a pig's cheek." He not only cooked a pig's check, but ate up the whole of it, after which he felt perfectly happy, and thenceforth hecame completely superition. Incidentally, too, he furnishes a lively illustration of one of Shakespeare's maxims in physiology:-

"Let me have men about me that are fat! Steek-headed men and such as steep o' nights, Youd' Cassius has a lean and hungry look.', "Ever since the year 1950," quoth Mr. Robbig. I come never croy myself with fat enough." An ill sign, this: and though the commissioners declare the Hermes of Sing

Sing now to possess what they are pleased to call "a perspirable skin," we are inclined-remembering his recent exploits in the matrimonfal line-to exclaim with Casar, "Would

he were fatter!"

But the strong point with the commissioners as well as with their interlocutor, after all, was their common interest in the noble subject of philology. In respect of this, the main theme of their joint debate, it is not easy to decide whether the innocence of the inquisitors or the impudence of the prisoner be the more eminent. The commissioners fell into a passion of admiration when the worthy professor calmly assured them that he could read "all the European languages ex-cept the Sclavonic." This extremely clear and explicit assertion he followed up with the observation that on the whole he had found "the Portuguese" the hardest of these aforesaid "European languages" to master, the mysteries of Basque and Magyar, of Erse and Welsh, being nothing to him in comparison with the sombre intricacies of the dulcet torgue of Camoens. It is possible that he may have got his notions of Portuguese from the English of that famous phrase-book" which Lisbon has contributed to the eternal delectation of mankind. This would account, perhaps, for his getting his notions of Eng ish, also, confused to that degree that he considers an "arbitrary" sign to be a sign made without choice on the part of the person making it. The prompt acquiescence of the commissioners in this luminous notion must be attributed, we presume, to the sympathetic union of their spirits with his own. Their docility indeed transcends praise. When they ventured timidly to ask him whether in his worshipful opinion "the Greek was an original language," they thankfully swallowed, and we hope were much benefited by, this really sublime reply, which we cannot refuse ourselves the pleasure of quoting at length.

"The phraseology of Homer," quoth Rul-loff, "is worked up weaderfully, and is greatly enriched from that of the early Greek writers. The letter R was not found in the earlier Greek. In writings of that time that letter was not necessary; but when Bacchus came out of India, and Bacchanalian life, with its orgies, revels, and carnivals, began, it then became necessary to describe the new condition of life."

In other words, we suppose, when men got drunk they found it necessary to spell drunk with an 'r," even if they were Greeks and had no such word in their language! In the flowery field of language one needs must dig the wholesome roots of etymology. Rulloff and the commissioners revelled in this part of their work like Perigord pigs in a truffle forest. The immortal derivation of pickled eucumbers from King Jeremiah and the admirable Dutch prolusions of Mr. Ker upon English proverbs would clearly be accepted by these sages as the most natural suggestions possible of the human mind.

When the inquest bore upon themes still more abstruse, and the commissioners undertook to justify the ways of God to Bulloff. the mental muddle of the latter became, as it was to be expected it should, a perfect Serbonias bog. The commissioners were shocked to find that Rulloff's faith in things unseen had been shaken by his study of "German metaphysics," these said German authors of his ruin having been, as he kindly stated, "Kant and Comte!" But although he "ac-cepted their philosophy" (the philosophy, that is, of Kant and Comte) "as conclusive," we don't see why the commissioners should despair of him. For he was at pains to let them know that his idea of "conclusive" was "vague;" that he sometimes believed in God and sometimes didn't; and that "some times he thought he was responsible," while "at other times he thought he was irrespon-

It is not easy to see what positive gain to the cause of justice has inured from all this. Dr. Vanderpool, whose words on a point of medical jurisprudence are worthy of all atten-tion, pronounces Rulloff to be "sane and sound in body and mind," or, in other words, to be perfectly fit to be hanged. It is a pity he had not contented himself with this dictum, and remembered in uttering it the advice of Lord Thurlow to his young friend going out to India. Rulloff's bad philology and worse philosophy will make him so popular with a mighty army of quidnunes that we shall hardly be surprised to find some extemporized millionnaire in the rural districts leap up and offer to give a small fortune for the founding of a university, on condition that this miracle of erudition be pardoned out to preside over it.

LEGAL NOTICES.

U. S. MARSHAL'S OFFICE, E. D. OF PENN-PHILADELPHIA, May S, 1871.

This is to give notice, that on the second day of March, A. D. 1871, a warrant in bankruphcy was issued against the estate of MILLER H. GILCHRIST, of Philadelphia, in the county of Philadelphia and State of Pennsylvania, who has been adjudged a bankrupt on his own petition; that the payment of any debts and delivery of any property belonging to such bankrupt to him, or for his use, and the transfer of any property by him, are forbidden by law; that a meeting of the creditors of the said bankrupt to prove their debts, and to choose one or more assignees of his estate, will be held at a Court of Bankruptcy, to be holden at No. 615 WAL. NUT Street, in the city of Philadelphia, before EDWIN T. CBASE, Esq., Register, on the sixth day of JUNE, A. D. 1871, at 11 o'clock A. M.

E. M. GRAGORY,

58 mst. PHILADELPHIA, May 8, 1871. U. S. Marshal, as Messenger. 58 mat

IN THE ORPHANS' COURT FOR THE CITY AND COUNTY OF PHILADELPHIA.

Estate of SARAH ANN THOMAS, deceased.
The Auditor appointed by the Court to audit, settle, and adjust the account of WILLIAM O. FLANIGEN, Administrator d. b. n. of SARAH ANN ThOMAS, deceased, being of all the assets of said estate which come into his hands, consisting of proceeds of sale of certain real estate sold under proceedings in partition by order of said Court, and to report distribution of the balance in the hands of the accountant, will meet the parties interested for the purpose of his appointment on TUESDAY, the lidth day of May, 1871, at 3 o'clock P.M., at the Office of JOHN P. O'NEILLS. No. 126 S. SIXTH Street, in he city of Philadelphia.

TESTATE OF FRANCIS SMITH, DECHASED.

DSTATE OF FRANCIS SMITH, DECRASED. E STATE OF FRANCIS SMITH, DECEASED.—
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16 barrels
17 medium grade,
18 medium grade,
19 barrels
18 medium grade,
19 barrels
19 medium grade,
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PHILADELPHIA, Pa., May 45, 1871.)

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